

REMARKS

The applicant notes that Claims 76 to 80, 82 to 93 and 95 to 97 have been rejected on the following bases:

a) Claim 78 has been objected to on the ground that a limitation has been repeated in the claim;

b) Claims 80, 82 and 95 have been objected to because of the inclusion of the term “and alternatively”;

c) Claims 78, 81 to 85, 90, 91 and 95 have been rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention;

d) Claims 76, 78 to 80, 82 to 84, 86 to 88, 90 to 93 and 95 have been rejected under 35 U.S.C. 102(b) as being anticipated by Backman, et al in U.S. Patent No. 5,957,865 (“Backman et al.”).

e) Claims 77, 85, 89, 96 and 97 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Backman as applied to Claim 77, in view of the disclosure of Boström in European Patent No. 0,773,037.

Non-Art Rejections

In the attached revised claims, Claim 78 has been revised to remove the offending passage. Claims 80, 82 and 95 have been revised to remove the term “and alternatively.” Claims 78, 81 to 85, 90, 91 and 95 have been revised to remove the offending terms “advantageously” and “preferably”.

Accordingly, it is respectfully submitted that the grounds for rejection of the claims under 35 U.S.C. 112 have now been satisfactorily addressed, and the objection to Claims 78, 80, 82 and 95 has also been addressed. Withdrawal of the §112 rejections of the Office Action at pages 3 and 4 is therefore requested.

Art Rejections

It is respectfully submitted that rejection (d) under 35 U.S.C. 102(b) of independent product Claim 76 and independent method Claim 88, as well as independent combination Claim 87 is incorrect and should be withdrawn. Backman et al. fails entirely to anticipate the rejected Claim 76 because the Examiner's interpretation of the disclosure of Backman is not believed to be correct.

The Examiner notes in the Office Action at the bottom of Page 4 and continuing to Page 5:

“Therefore, the distal end 22 is capable of being bent into a curved configuration in the central major plane for forming an alignment portion” (meaning, the distal end 22 is bent left or right in the orientation seen below in FIG. 2)...”

That simply is not what Backman discloses. FIG. 2 of Backman (reproduced in the Office Action) is a sectional view taken along line 2-2 in FIG. 1 looking distally along guidewire 12. FIG. 3 is rotated 90 degrees from the view of FIGS 1 and 2. The only bending configuration remotely disclosed by Backman et al. is out of the plane i.e., perpendicular to flattened tip 22 and surfaces 44, 46:

“The substantially rectangular cross-section of flattened tip 22 provides two distinct functions. First the substantially rectangular cross-section of flattened tip 22 results in greater flexibility of movement in a plane that is substantially perpendicular to planar surfaces 44, 46....” (col. 6 line 25, et seq.)

“...Moreover, because the rectangular tip 22 resists distortion in directions perpendicular to the planes formed by sides 48, 50, the tip 22 is more apt to retain the pre-bent orientation given to it prior to insertion into the patient.” (col. 6, line 51).

If anything Backman et al. teaches away from this invention.

“In contrast, flattened tip 22 is much less flexible in other directions, and in particular to sides 48, 50....” (col. 6 line 29, et seq.) cf. quoted language above from col. 6 line 51 et seq.)

It is respectfully submitted that nowhere in the disclosure of Backman is there any disclosure or suggestion that the distal portion 22 of the core wire of Backman could be bent to the left or right of Fig. 2 as would be required to anticipate claim 76 and as suggested by the Examiner.

In contrast claim 76 specifically requires that...“the distal portion of the core wire is bent into a curved configuration in the central major plane for forming an alignment portion lying in the central major plane...” (Emphasis supplied)

This feature of the present invention is more completely described at PAP 2006/0264784 paragraph 78 which referring to FIG. 10 provides in part:

“[0078] Referring now to FIG. 10, there is illustrated a portion of a guide wire according to a further embodiment of the invention, indicated generally by the reference guide wire 1 and similar components are identified by the same reference numerals. However, in this embodiment of the invention only half the distal portion 16 of the guide wire 40 is illustrated in FIG. 10. The distal portion 16 is bisected along the central major plane 24. The other half of the distal portion 16 is a mirror image of the illustrated portion. In this embodiment of the invention a reinforcing means provided by a reinforcing member in the form of an elongated reinforcing plate 41 extends along each major surface 18 and 19 of the distal portion 16 for increasing the column strength of the distal portion 16, and thus minimizing inadvertent bending of the distal portion 16 in the central minor plane 25. The reinforcing plates 41 extend along the major surfaces 18 and 19 and coincide with the central minor plane 25 in the distal portion 16 prior to the curved portion 28....” (Emphasis supplied)

Central major plane 24 is clearly shown in FIG. 10 below. Backman's bent curved configuration is clearly perpendicular to its major plane.

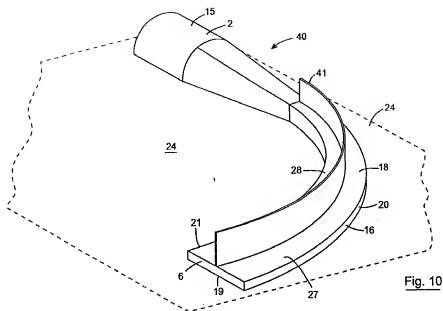


Fig. 10

Claims 78 to 80, 82 to 84, 86 to 88, 90 to 93-95 have been rejected as being anticipated by Backman et al. Claims 86, 90 to 95 have been cancelled. The remaining claims all depend directly or indirectly either from claim 76 or from another claim requiring the core wire to be “bent into a curved configuration in the central major plane.” (emphasis supplied). It is believed, therefore, that Backman neither discloses nor suggests the subject matter of any of those claims.

Claims 77, 85, 89, 96 and 97 stand rejected under 35 U.S.C. §103(a) as being obvious over the Backman et al. primary reference as applied to claim 77 above in view of EP 0773,037 to Boström et al. (“Boström et al.”). (Claim 97 has been cancelled.) Primary reference Backman has been analyzed and distinguished in detail above. Moreover, Backman has been shown actually to teach away from the presently-claimed invention rather than to anticipate it. Given the unambiguous distinctions between the claims of the present invention and the teaching of Boström et al., the primary reference, it follows that this §103(a) rejection must be withdrawn.

Boström et al. most certainly does not correct the deficiency of Backman et al. As is noted by the Examiner Boström et al. merely provides some minor direction as to the extent of the core wire distal segment bend. Nothing at all is disclosed or suggested with regard to the unambiguous claim feature of the present invention i.e. that the core wire is “bent into a curved

configuration in the central major claim". Thus, it is believed this obviousness rejection based upon a combination of references has been overcome and should be withdrawn.

New Claims

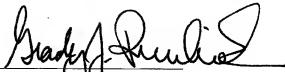
Turning now to new Claims 98 to 107. New Claims 98 to 101 recite features which have been deleted from Claim 78. New Claims 102 to 105 recite features which have been deleted from Claim 82, while new Claims 106 and 107 claim features which have been deleted from Claim 81. Since revised Claims 77 to 84, 96 and 98 to 107 are dependent on revised Claim 76, and since revised Claim 76 should now be in order for allowance, it is respectfully submitted that revised Claims 77 to 84, 96 and 98 to 107 should now be similarly allowable, and allowance is respectfully requested.

Revised Claim 87 is now directed towards a combination of a catheter and a guide wire. The guide wire of revised Claim 87 includes all the features of the guide wire of revised Claim 76, and accordingly, it is respectfully submitted that since revised Claim 76 should now be in order for allowance, revised Claim 87 should likewise be in order for allowance, and allowance is respectfully requested.

Revised Claim 88, which is directed towards a method for forming an elongated guide wire includes method steps which it is respectfully submitted correspond with all the features of the revised Claim 76. Similar comments apply to revised Claim 88 as apply to revised Claim 76. Accordingly, it is respectfully submitted that revised Claim 88 should similarly be in order for allowance, and allowance is respectfully requested.

In view of the revisions which have been made to the claims and the above comments, it is respectfully submitted that the Application should now be in order for allowance, and allowance is respectfully requested.

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